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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 **ABBY LYNN LEAVENS**  
12 **2655 Brentwood Circle**  
13 **Arroyo Grande, California 93420**  
**Registered Nurse License No. 659752**

14 Respondent.

Case No. **2010-253**  
**ACCUSATION**

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.E.D., RN ("Complainant") brings this Accusation solely in her  
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),  
20 Department of Consumer Affairs.

21 **Registered Nurse License**

22 2. On or about June 29, 2005, the Board issued Registered Nurse License Number  
23 659752 to Abby Lynn Leavens ("Respondent"). The registered nurse license was in full force  
24 and effect at all times relevant to the charges brought herein and will expire on May 31, 2011,  
25 unless renewed.

26 **STATUTORY PROVISIONS**

27 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
28 part, that the Board may discipline any licensee, including a licensee holding a temporary or an

1 inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of  
2 the Nursing Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision  
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed  
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the  
11 following:

12 (1) Incompetence, or gross negligence in carrying out usual certified or  
13 licensed nursing functions.

14 6. California Code of Regulations, title 16, section 1442, states:

15 As used in Section 2761 of the code, 'gross negligence' includes an  
16 extreme departure from the standard of care which, under similar circumstances,  
17 would have ordinarily been exercised by a competent registered nurse. Such an  
18 extreme departure means the repeated failure to provide nursing care as required or  
19 failure to provide care or to exercise ordinary precaution in a single situation which  
20 the nurse knew, or should have known, could have jeopardized the client's health or  
21 life.

### 22 COST RECOVERY

23 7. Code section 125.3 provides, in pertinent part, that the Board may request the  
24 administrative law judge to direct a licensee found to have committed a violation or violations of  
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
26 enforcement of the case.

### 27 BACKGROUND

28 8. Between January 2006, and August 2006, Respondent was employed by Central  
Coast Laser Center, San Luis Obispo, California, providing laser skin treatments under the  
supervision of the owner of the facility, Jeff McMoine, who fraudulently represented himself as a  
registered nurse. Following the receipt of a complaint from N.W., the Department of Consumer  
Affairs began an investigation of the facility.

1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence)

3 9. Respondent is subject to discipline under Code section 2761, subdivision (a)(1), on  
4 the grounds of unprofessional conduct, in that between January 2006, and August 2006, while on  
5 duty as a registered nurse at the Central Coast Laser Center, Respondent committed acts  
6 constituting gross negligence, as defined in California Code of Regulations, title 16, section 1442,  
7 by performing laser skin treatments without a supervising physician and in the absence of  
8 standardized procedures.

9 SECOND CAUSE FOR DISCIPLINE

10 (Unprofessional Conduct)

11 10. Respondent is subject to discipline under Code section 2761, subdivision (a), on the  
12 grounds of unprofessional conduct, in that between January 2006, and August 2006, while on  
13 duty as a registered nurse at the Central Coast Laser Center, Respondent committed acts  
14 constituting unprofessional conduct, as more particularly set forth in paragraph 9, above.

15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Board of Registered Nursing issue a decision:

- 18 1. Revoking or suspending Registered Nurse License Number 659752, issued to Abby  
19 Lynn Leavens;
- 20 2. Ordering Abby Lynn Leavens to pay the Board of Registered Nursing the reasonable  
21 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
22 Code section 125.3; and,
- 23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 11/5/09

25 Louise R. Bailey  
26 LOUISE R. BAILEY, M.E.D., RN  
27 Interim Executive Officer  
28 Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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